

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

ANTHONY FELIX, an individual; on behalf of
himself and all others similarly situated,

Plaintiffs,

vs.

NORTHSTAR LOCATION SERVICES, LLC,
a New York Limited Liability Company; and
JOHN AND JANE DOES NUMBERS 1
THROUGH 25,

Defendants.

DONNIE JO HARB, an individual; on behalf of
herself and all others similarly situated,

Plaintiffs,

vs.

NORTHSTAR LOCATION SERVICES, LLC,
a New York Limited Liability Company; and
JOHN AND JANE DOES NUMBERS 1
THROUGH 25,

Defendants.

CASE NO.: 1:11-cv-00166-WMS-JJM

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ATTORNEY AFFIRMATION

ROBERT L. ARLEO, an attorney duly admitted to practice law in the State of New York and
in the United States District Court for the Western District of New York, hereby affirms the
underlying to be true under the penalties of perjury.

1. I am a co-counsel of record for the Plaintiffs named in the above-entitled consolidated
actions.

2. In submit the herein affirmation in conjunction with the directive of the Court to show cause why my co-counsel, William F. Horn, and I should not be sanctioned pursuant to Fed. R. Civ. P. 11 for failure to advise the Court of controlling case precedent adverse to the position of the Plaintiffs.

3. I refer the Court to the Memorandum of Law and all those exhibits submitted herewith.

4. I am confident that the Court, after reviewing the memorandum of law and the exhibits referenced therein, will conclude that my co-counsel and I are not deserving of Fed. R. Civ. P. 11 sanctions. The memorandum of law is submitted as a matter of law. However, the herein affirmation is further submitted as a matter of person.

5. I sincerely hope that Magistrate Judge McCarthy understands that I am not an attorney who engages in a lack of candor with any court. In fact, just the opposite is true and so much so that sometimes my goal of absolute candor with the Court has proven been to my own detriment. However, I believe that the vast majority of federal judges have well received my efforts of total candor.

6. It is thus with a certain amount of distress that I read the Decision and Order dated May 28, 2013 issued by Magistrate Judge McCarthy which resulted in the show cause order to which I now respond. Had the facts truly been the way he perceived then I would fully understand the severity with which he viewed the conduct of myself and my co-counsel.

7. I am especially concerned over any perception that I attempted to engage in what can only be described as “sneaky” conduct in my dealings with Magistrate Judge McCarthy which could be perceived as me lacking respect for him on a professional level and personal level. In fact, and again, the exact opposite is true. I have the utmost respect for Magistrate Judge McCarthy on both a professional and personal level. I am especially appreciative of the respect which he has shown to all counsels during telephonic conferences in this matter. I am very concerned that he may have believed that I would treat him with less respect than I would treat another federal judge. Same is simply not the case and the exhibits included with the memorandum of law prove this fact.

8. It is my true hope and goal that all of the papers submitted in regard to the show cause order issued on May 28th will affirm to Magistrate Judge McCarthy that he is both well respected and well appreciated and that neither I nor my co-counsel would ever knowingly fail to cite adverse controlling case precedent in any paper which we may file in any case assigned to him or to any judge in any court whatsoever.

9. It is important for the Court to understand that best efforts do not equate to best results. In fact, we could have made it easier for the Court had we fully analyzed and applied the holdings in *Hecht v. United Collection Bureau* and *Wal-Mart v. Dukes* as directed by Magistrate Judge McCarthy in his subsequent email dated. However, hindsight is twenty-twenty.

10. I have been practicing law for twenty two (22) years. I believe that my moral integrity has served me well and has advanced the interests of my clients and persons unknown to me who are and were members of classes in the many class actions with which I have been involved over the years.

DATED: Haines Falls, New York
June 11, 2013

Robert L. Arleo
ROBERT L. ARLEO